

## **THE REGULATION OF POST-SECONDARY DEGREE GRANTING INSTITUTIONS IN THE STATE OF HAWAII**

In the United States, the regulation of post-secondary degree granting institutions is done on a state-by-state basis. In the State of Hawaii, degree granting institutions fall into one of two categories: accredited or unaccredited. State law specifically defines unaccredited institutions as “degree granting institutions that are not accredited or a candidate for accreditation by at least one nationally recognized accrediting agency that is listed by the United States Secretary of Education.” It is important to understand that not all so-called accrediting agencies enjoy such recognition. Further information concerning accreditation in the United States, including a list of the nationally recognized accrediting agencies can be found online at the United States Department of Education website [<http://www.ed.gov/admins/finaid/accred/index.html>].

The Western Association of Schools and Colleges is the recognized regional accrediting association that accredits private schools, colleges and universities in the State of Hawaii. A listing of the WASC institutions operating in or from Hawaii can be found online at [<http://www.wascweb.org>].

Private trade, vocational and technical schools are required to be licensed and are regulated by the State of Hawaii’s Department of Education. For further information on these types of schools, contact:

The Community Education Section  
634 Pensacola Street, Room 222  
Honolulu, HI 96814  
Telephone: (808) 594-0170  
Facsimile: (808) 594-0181

Unaccredited degree granting institutions which operate in, from or claim to operate under the color of Hawaii law are subject to Hawaii’s Unaccredited Degree Granting Institutions law, codified in Chapter 446E of the Hawaii Revised Statutes. The complete text of the law can be found online at [<http://www.hawaii.gov/dcca/ocp/statutes&rules/chapter446e.htm>]. The Office of Consumer Protection is the state agency responsible for enforcing Chapter 446E. The State of Hawaii does not accredit any institutions. Unlike many other states, Hawaii does not license or approve any unaccredited institutions.

Chapter 446E was originally enacted in 1979. At that time, the law only required unaccredited institutions to disclose that they were unaccredited in all communications to the general public and prospective students. The law was slightly amended in 1990, but the bulk of its current provisions were passed into law effective July 1, 1999. At that time, the legislature found that the proliferation of diploma mills in the state was harmful to consumers and to all legitimate educational institutions. As a result, Chapter 446E currently imposes a number

of affirmative requirements on unaccredited institutions and also prohibits certain conduct.

§446E-1 defines various terms used within the law. §446E-1.6 lists the types of schools and courses of instruction that are *not* subject to the law. Although the Director of the Department of Commerce and Consumer Affairs has the authority to adopt rules in order to carry out the functions, powers and duties of Chapter 446E, no such rules have been promulgated.

§446E-2(a) and (b) contain the requirement that unaccredited institutions must disclose their unaccredited status and the method for doing so. The section contains the exact text of the required disclosure and other information concerning it. Subsection §446E-2(b) pertaining to advertising in newspapers and magazines was added in 2001.

§446E-2(c) requires unaccredited institutions to keep records and to produce them to the Office of Consumer Protection upon request.

§446E-4 requires unaccredited institutions to designate and maintain an agent for service of process purposes and provides a mechanism for serving process upon them.

§446E-5 contains a list of prohibited practices. Unaccredited institutions cannot indicate or suggest that the State licenses, approves, or regulates its operations. They cannot offer or issue juris doctor, master of law, doctorate of medicine or equivalent degrees. Unaccredited institutions are prohibited from issuing any degrees unless they have a Hawaii office, a Hawaii resident employee and 25 enrolled students in Hawaii. Unaccredited institutions are prohibited from accepting tuition or other payments unless they are in complete compliance with all of the provisions of Chapter 446E. Unaccredited institutions are prohibited from claiming that they have applied for future accreditation.

Violations of the provisions of Chapter 446E are deemed to be *per se* “unfair acts or practices.” Under Hawaii law, unfair acts or practices are subject to fines of not less than \$500 nor more than \$10,000 for each violation.

The Office of Consumer Protection has filed numerous lawsuits seeking to enforce the law. A list of the universities which have been sued, including the text of the lawsuits and judgments is now online at [[http://www.hawaii.gov/dcca/ocp/case\\_info.html](http://www.hawaii.gov/dcca/ocp/case_info.html)].

Individual students or graduates also have the right under state law to file their own private lawsuits or class action suits against universities which they believe have violated Chapter 446E. [<http://www.hawaii.gov/dcca/ocp/statutes&rules/480.html>]

In addition to Chapter 446E and like any private business, unaccredited degree granting institutions are also subject to the general business and consumer protection laws of the state.